DOCKET FILE COPY ORIGINAL

RECEIVED

JUL 10 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition for Expedited Rulemaking	)	CC Docket No. 96-98
by LCI International Telecom Corp.	)	RM 9101
and Competitive Telecommunications	)	
Association	)	

COMMENTS OF TELEPORT COMMUNICATIONS GROUP INC.

Teleport Communications Group Inc. ("TCG") hereby submits its Comments regarding the Petition for Expedited Rulemaking filed by LCI International Telecom Corp. and the Competitive Telecommunications Association (collectively, "Petitioners") on May 30, 1997.

I. INTRODUCTION

TCG is the largest facilities-based competitive local exchange carrier, currently certified to provide local exchange service in twenty-five states. Over the last eighteen months, TCG has entered into interconnection agreements with each of the Bell Operating Companies ("BOCs") and SNET. Like Petitioners, TCG has yet to enjoy in any of these states and with any of these incumbent local exchange carriers ("ILECs") fully functioning interfaces with the ILECs' operations support systems ("OSS"), despite the fact that the Communications Act requires ILECs to provide performance parity to competitive local exchange carriers ("CLECs"). TCG agrees with Petitioners that access to ILEC OSS is essential if ILECs are to satisfy this statutory obligation. However, OSS availability in and of itself does not solve

this problem. OSS must be fully functional and measurements must be regularly monitored to ensure performance parity.

TCG disagrees with Petitioners' proposal to set performance parity measurements in static, numerical form. Any regulations related to OSS must reflect that the statutory language requires a flexible measurement to incorporate dynamic changes in the provisioning of ILEC services. These dynamic changes logically may alter the performance parity requirements against which services to CLECs must be compared. In addition, a distinction must be made between performance parity issues faced by facilities-based CLECs and those faced by pure resale CLECs, which essentially rebrand the ILEC's service package. Unless this distinction between the needs of facilities-based and pure resale CLECs is recognized, Congress' expressed goal to encourage facilities-based competition will not be realized.[1] Therefore, although TCG does not oppose Petitioners' request that the Commission initiate a rulemaking, TCG strongly recommends that the Commission refrain from adopting any rules that would require rigid, numeric measurements as Petitioners suggest.[2] Such measurements would become

---

1. Section 271 of the Communications Act makes the existence of a facilities-based competitor an essential prerequisite for entry by a BOC into in-region long distance in cases where the BOC has received a request for interconnection. See 47 U.S.C. § 271(c)(1)(A).

2. For example, Petitioners propose that the ILEC response time to a CLEC pre-ordering request should be "≤ 2 seconds from the time the query is launched until the following data is received back." Petition, Appendix B at 5. Similarly, Petitioners suggest that an ILEC representative should answer calls to its provisioning and trouble report centers within 20 seconds, greater than or equal to

antiquated over time as ILEC performances change in response to technological developments and competitive pressures. More importantly, rigid, numeric measurements would be contrary to the plain statutory language.

II. SECTION 251 MANDATES THAT PERFORMANCE PARITY NOT BE LIMITED BY STATIC, RIGID MEASUREMENTS

The Communications Act requires ILECs to provide CLECs with parity of performance.[3] The Commission further determined that

> the phrase 'nondiscriminatory access' in section 251(c)(3) means at least two things: first, the quality of an unbundled network element that an incumbent LEC provides, as well as the access provided to that element; second, where technically feasible, the access and unbundled network element provided by an incumbent LEC must be at least equal-in-quality to that which the incumbent LEC provides itself.[4]

"Performance parity," therefore, is the simple concept of measuring the ILEC performance in providing service to itself, its affiliates, and each CLEC, and comparing this with the service provided by the ILEC to the CLECs. Once these

---

2.(...continued)
95 percent of the time, and within 30 seconds for 100 percent of the calls. Id. at 11. While these may be realistic standards for resale CLECs today, they should not be memorialized in static rules.

3. See 47 U.S.C. §§ 251(c)(2)(C) (ILECs must provide to any requesting carrier "interconnection with the local exchange carrier's network that is at least equal in quality" to that the ILEC provides to itself, its affiliates, or any other interconnecting customer); see also 47 U.S.C. § 252(c)(3).

4. Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, 15659 (¶ 312), appeal pending sub nom. Iowa Utils. Bd. v. FCC, 109 F.3d 418 (8th Cir. 1996) ("Local Competition Order") (footnote omitted).

measurements are made, it is easy to determine whether or not the ILEC has satisfied its statutory performance parity requirement. This straightforward comparison will enable the FCC, state commissions, and carriers to assess the efforts of ILECs in meeting the statutory parity requirements and to impose sanctions when necessary. In its Local Competition Order, the Commission concluded that "the incumbent must provide access to these [OSS] functions under the same terms and conditions that they provide these services to themselves or their customers."[5] The Commission's simple statement best encompasses the concept of parity, while also making clear that the adoption of static standards does not adequately accomplish this directive.

The statutory language and the Commission's interpretation indicate that parity is a moving benchmark that the Commission likely cannot and should not attempt to pinpoint. Benchmarks will change over time based on two factors: evolving technology and improvements in response to competitive pressures. Rigid measurement requirements, like those recommended by Petitioners, would be contrary to the statute, because they would freeze in place ILEC practices and would require CLECs repeatedly to request rule changes merely to ensure enforcement of the statutory parity requirement.

The idea of parity as a moving benchmark is precisely the concept endorsed by the Department of Justice ("DOJ") and explained in the accompanying affidavit

---

5. Id. at 15661 (¶ 316).

sponsored by Michael J. Friduss concerning the DOJ evaluation of the SBC-Oklahoma Section 271 application.[6] According to Mr. Friduss:

> When a BOC's performance of certain functions for its retail units or 'end user' customers is identical or analogous to the performance of those functions for competitors or their customers, parity performance measures apply. Parity performance measures merely juxtapose performance results, such as trouble reports per month per customer placed by the BOC's customers compared with those of a competitor's customers.[7]

Therefore, performance parity measurements will indicate whether the CLEC enjoys the service within the same timeframe and reliability as the ILEC and its customers.[8]

In this regard, TCG's proposal reflects Mr. Friduss' parity concept and thus, will account for the fact that when ILEC measurements change over time, these changes may be assessed and compared with the service that is provided to CLECs for the same category in the same time period.[9] The attached proposal also incorporates pertinent proposals generated by Petitioners. The significant difference between TCG's proposal and Petitioner's recommendation is that TCG's proposal does not dictate any rigid requirements. TCG does not propose the

---

6. See Application of SBC Communications Inc. et al. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in the State of Oklahoma, CC Docket No. 97-121, Evaluation of the United States Department of Justice, Affidavit of Michael J. Friduss (attached as Tab D) (filed May 16, 1997).

7. Id. at 10 (¶ 28).

8. Id. at 10 (¶ 30).

9. See Exhibit 1 (attached).

prescription of rigid, numeric requirements because such measurements would be contrary to the statutory requirement that the CLEC receive the service on the same basis as the ILEC.

III. PERFORMANCE PARITY REQUIREMENTS FOR FACILITIES-BASED CLECs AND RESALE CLECs DIFFER

ILECs are required to provide both facilities-based and resale CLECs with services that are equal in quality to that the ILEC provides itself, its affiliates, and its customers. However, "performance parity" has different meanings for facilities-based and resale CLECs.[10] Specifically, OSS is crucial in enabling facilities-based CLECs and ILECs to coordinate the functioning of two separate networks. Resale CLECs, on the other hand, purchase a prepackaged unit from the ILEC in order to provide service. The ILEC simply replicates its service for the resale CLEC on one network, over which it has complete control. For the facilities-based CLEC, however, the ILEC must coordinate with the CLEC to handle service orders and provision network elements over two interconnection networks — one controlled by the ILEC and one controlled by the CLEC.

In many instances, a facilities-based CLEC will be providing service to its customers using a combination of its network and the ILEC network. In this case,

---

10. See Petition at 28 ("The basic list of OSS requirements (pre-ordering, ordering/provisioning, billing, and maintenance and repair) has been heavily influenced by initial CLEC experiences. These experiences have involved resale and not unbundled network elements (UNEs). . . . This distinction of providing OSS access for resale and UNEs is crucial.").

only fully functioning OSS will permit the facilities-based CLEC to coordinate its network facilities with the ILEC's facilities for provisioning, repair, and maintenance. Without such network-to-network coordination, reliable service to a facilities-based CLEC's customers is at risk. For example, pre-ordering enables the CLEC to assess availability of ILEC resources and the elements necessary to meet the CLEC customers' service needs. Unlike the resale CLEC, the facilities-based CLEC may offer various combinations of its own facilities and unbundled network elements to best meet customer requests and may actually re-route services over its own facilities depending upon over which facilities and when the ILEC can provision requested unbundled network elements. At a minimum, related ILEC services should be measured to the extent that they entail the coordinated provision of a service to the end user, such that any delay (as compared to the provisioning of a similar ILEC service) would be visible to the end user.

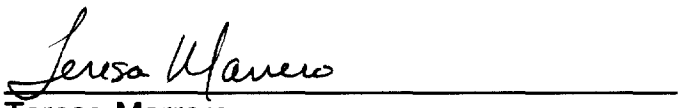
Petitioners have set forth a very detailed proposal supporting the initiation of a rulemaking. However, facilities-based CLECs face different, and perhaps more complex, issues than presented by Petitioners in ensuring that the performance parity mandate is fulfilled. Although some measurement categories pertinent to facilities-based and resale CLEC issues overlap, regulations governing OSS functions cannot be developed to apply universally to facilities-based and resale CLECs. Such a "one-size-fits-all" approach will not successfully implement the performance parity mandate.

IV. CONCLUSION

TCG recommends that to the extent the Commission adopts performance parity rules, the Commission should not develop exact, numeric measurements as suggested by Petitioner. As stated herein, such an approach would not best satisfy the statutory requirement for performance parity, which is not a static measurement. Instead, any rules adopted by the Commission should reflect TCG's recommendations, which incorporate the DOJ's concept of parity and are modeled to help guarantee the minimum parity measurements for both facilities-based and pure resale CLECs.

Respectfully submitted,

TELEPORT COMMUNICATIONS GROUP INC.



Teresa Marrero
Senior Regulatory Counsel - Federal
Two Teleport Drive
Staten Island, N.Y. 10311
(718) 355-2939

Its Attorney

Dated: July 10, 1997

EXHIBIT 1

OPERATIONAL SUPPORT SYSTEM FUNCTIONS
MINIMUM PARITY MEASUREMENTS

Quarterly reports by service or element.

OSS FUNCTION	MINIMUM PARITY MEASUREMENTS	ILEC	ILEC AFFILIATE	10 LARGEST ILEC RETAIL CUSTOMERS	CLEC #1	CLEC #2, 3, 4 . . .
Pre-Ordering (Pet. at 9-11)	*Pre-Ordering functions allow CLECs to determine the availability of ILEC resources and elements necessary to meet the CLEC customers' service requirements.* • Number of hours per day ILEC OSS systems are available for pre-ordering activities. • Real-time read-only access provided to customer service records. • Response time to provide address verification. • Response time to select an order due date • Response time to verify availability of channel capacity on a T1 or T3 facilitiy and determine the ISDN capability of a loop. • Response time to provide service availability and service appointment scheduling information.					

OPERATIONAL SUPPORT SYSTEM FUNCTIONS
MINIMUM PARITY MEASUREMENTS

Quarterly reports by service or element.

OSS FUNCTION	MINIMUM PARITY MEASUREMENTS	ILEC	ILEC AFFILIATE	10 LARGEST ILEC RETAIL CUSTOMERS	CLEC #1	CLEC #2, 3, 4 . . .
Ordering (Pet. at 11-13)	*Ordering functions allow CLECs to process orders directly into the ILEC's system.* • Interval to return a FOC - measured in mean and median values. • Interval to return an Order Jeopardy or Order Reject notification. • Interval between Customer Desired Due Date (CDDD) and the Customer Concurred Due Date (CCDD) - measured in mean and median values. • Interval between date FOC is returned and the Customer Concurred Due Date (CCDD) included within the returned FOC - measured in mean and median values. • Percentage service orders that flow through ILEC OSS systems wthout human intervention. • Percentage of service orders prepared by BOC exactly as ordered.					

OPERATIONAL SUPPORT SYSTEM FUNCTIONS
MINIMUM PARITY MEASUREMENTS

Quarterly reports by service or element.

OSS FUNCTION	MINIMUM PARITY MEASUREMENTS	ILEC	ILEC AFFILIATE	10 LARGEST ILEC RETAIL CUSTOMERS	CLEC #1	CLEC #2, 3, 4 . . .
Provisioning (Pet. At 11-13)	*Provisioning functions enable CLECs to monitor, in real time, the installation status and accuracy of service orders submitted to the ILEC.* • Actual installation interval service order requests - also measured in mean, median and standard deviation values. • Actual installation interval of ILEC affiliate service order requests - also measured in mean, median and standard deviation values. • Percent of service orders completed on time (by the date stated in the FOC). • Number of installs rescheduled with a later service order due date at ILEC request. • Percentage of "held orders" delayed for over [X] days by the ILEC for lack of network facilities. • Percentage of "held orders"delayed for over [Y] days by the ILEC for lack of network facilities.					

OPERATIONAL SUPPORT SYSTEM FUNCTIONS
MINIMUM PARITY MEASUREMENTS

Quarterly reports by service or element.

OSS FUNCTION	MINIMUM PARITY MEASUREMENTS	ILEC	ILEC AFFILIATE	10 LARGEST ILEC RETAIL CUSTOMERS	CLEC #1	CLEC #2, 3, 4 . . .
Maintenance/Repair (Pet. at 15-16)	*Maintenance and Repair functions enable CLECs, in real-time, to monitor ongoing ILEC service quality and to report and monitor the clearance of network troubles.* • Initial ILEC response time to reports of trouble from each study group. • Provide full description of ILEC emergency restoration and disaster recovery plans. • Provide daily record usage data -- including call attempts, calls blocked, and completed calls. • Trouble or failure reports per access line. • Percentage of time that ordered circuits are available. • *Time to repair, measured in mean, median* and standard deviation values. • Frequency of recurring customer trouble on the same line, circuit or service. • Interval between repair completion and notification.					

OPERATIONAL SUPPORT SYSTEM FUNCTIONS
MINIMUM PARITY MEASUREMENTS

Quarterly reports by service or element.

OSS FUNCTION	MINIMUM PARITY MEASUREMENTS	ILEC	ILEC AFFILIATE	10 LARGEST ILEC RETAIL CUSTOMERS	CLEC #1	CLEC #2, 3, 4 . . .
Billing (Pet. at 13-14)	*Billing functions enable accurate and timely billing to CLECs for elements, access lines, and trunks ordered from the ILEC.* • Percentage of billing records delivered on time. • Percentage of error-free and complete billing records.					

CERTIFICATE OF SERVICE

I, Dottie E. Holman, do hereby certify that a copy of the foregoing Comments was sent by hand-delivery and first-class mail this 10th day of July, 1997, to the following:

William F. Caton*
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Janice M. Myles*
Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Rm. 544
Washington, D.C. 20554

ITS*
1231 20th St., N.W., Room 102
Washington, DC 20037

Anne K. Bingaman
Douglas W. Kinkoph
LCI INTERNATIONAL TELECOM CORP.
8180 Greensboro Drive, #800
McLean, Virginia 22102

Eugene D. Cohen
Bailey Campbell PLC
649 North Second Avenue
Phoenix, Arizona

Genevieve Morelli
Ex. V.P. & General Counsel
COMPTEL
1900 M Street, N.W.
Washington, D.C. 20036

Rocky Unruh
Morgenstein & Jubelirer
Spear Street Tower
San Francisco, CA 94105

Dottie E. Holman

*By hand delivery